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RCRA, Superfund & EPCRA CALLCENTER

Training Module

Introduction to:

Oil Pollution Prevention Regulation and the Oil Pollution Act of 1990

United States Environmental Protection Agency

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OIL POLLUTION PREVENTION REGULATION AND THE OIL POLLUTION ACT OF 1990

CONTENTS

1. INTRODUCTION

Billions of gallons of oil currently stored in the United States and shipped across its waters pose a serious threat to the environment. Oil spills can damage plants and animals in the fresh water and marine environment; in fact, a single pint of oil released into the water can cover one acre of water surface area and seriously damage an aquatic habitat. Birds, fish, and other wildlife can lose necessary food sources and habitat. Economic effects can be drastic as well, harming commercial fisheries and contributing to decreased recreation and tourism revenues. Populations that depend on marine resources as part of their traditional, subsistence culture also can be drastically affected. Congress has therefore enacted several laws mandating oil pollution prevention efforts.

The Federal Water Pollution Control Act of 1972 (Clean Water Act) mandated regulations for the prevention of oil spills into the navigable waters and adjoining shorelines of the United States. The federal oil spill prevention regulations, known as the spill prevention, control, and countermeasure (SPCC) regulations, were promulgated on December 11, 1973 (38 FR 34164). The SPCC regulations provide a basic framework for operational procedures, containment requirements, and response needs of certain facilities that might release oil into navigable waters.

Despite the implementation of the SPCC regulations and other federal pollution prevention requirements, problems with oil spills continued to increase, culminating in a devastating oil discharge into Alaska's Prince William Sound in 1989 from the *Exxon Valdez*. In response to this discharge and other major oil spills, Congress enacted the Oil Pollution Act of 1990 (OPA). OPA expanded EPA's planning and spill prevention activities and improved its preparedness and response capabilities by stipulating that tank vessels, offshore oil facilities, and certain onshore facilities are required to submit response plans designed to ensure that sufficient personnel and equipment are available to respond to and mitigate a worst-case oil discharge. The response plans focus on response activities and must be consistent with other statutes and regulations, including the Superfund Amendments and Reauthorization Act (SARA) Title III (also known as the Emergency Planning and Community Right-to-Know Act (EPCRA)) and the National Contingency Plan (NCP).

Aside from facility-specific requirements to mitigate oil spills, the federal government has established a coordinated network of officials to respond to oil spills by providing technical support and response equipment, as needed. Reportable releases of oil into navigable waters must be reported to the National Response Center, at which time federal authorities will determine the appropriate response.

The goal of this module is to explain the purpose, scope, and reporting requirements of EPA's oil pollution prevention regulations. After you have completed this module, you will be able to:

- Identify the major objectives of the Oil Pollution Act of 1990;
- Identify those facilities required to prepare SPCC Plans;
- Identify those facilities required to prepare and submit Facility Response Plans;

- Explain an owner or operator's notification obligations for a discharge of a harmful quantity of oil into navigable waters; and

- Explain the scope of the Oil Spill Liability Trust Fund.

2. OIL PROGRAM HISTORY

The Oil Program has a long history of protective requirements that are directed toward preventing water pollution. Originating in 1973, the SPCC regulations were promulgated prior to any other Call Center program area. Therefore, the Oil Program, with its associated protective and often preemptive requirements, represents the oldest pollution prevention regulation within the Call Center's purview. In order to provide additional detail and background on this continually developing program, statutory and regulatory histories are provided below.

2.1 STATUTORY HISTORY

Oil pollution prevention regulation originated in 1899 with the Rivers and Harbors Act, the goal of which was to protect the navigability of commercial waters. In 1948, the Federal Water Pollution Control Act provided the first funds for constructing publicly owned treatment works (POTWs), that treat municipal wastewater prior to its discharge into the environment. The Water Quality Act of 1965 established interstate water quality standards, requiring that each water body achieve or maintain specific water quality standards.

The Clean Water Act (CWA) of 1972 established a technology-based approach to maintaining water quality. This Act prohibits discharges without a permit and allows permitted discharges to release only limited amounts of chemicals into navigable waters. As a result of the CWA, most point source discharges were successfully controlled, and the quality of the nation's waters generally remained stable or improved slightly. The CWA sets the framework for a comprehensive program for water pollution control. The major objectives of the CWA include eliminating pollutant discharges to navigable waters, attaining water quality standards that provide for the protection of fish, shellfish, and wildlife, and providing federal financial assistance for the construction of POTWs.

Section 311 of the CWA specifically prohibits discharges of oil or hazardous substances into or upon the navigable waters or adjoining shorelines of the United States, or the waters of the contiguous zone. In fact, CWA §311(j)(1) requires the President to issue oil spill prevention regulations. Through an executive order, the President delegated the authority to regulate non-transportation-related onshore and offshore facilities to EPA, and the authority to regulate transportation-related onshore and offshore facilities to the United States Coast Guard (USCG), which currently operates under the authority of the U.S. Department of Transportation (DOT).

2.2 REGULATORY HISTORY

On December 11, 1973, EPA promulgated the SPCC regulations, codifying them in 40 CFR Part 112 (38 FR 34164; December 11, 1973). They were amended on August 29, 1974, to establish EPA's policy on civil penalties for violation of the CWA §311 requirements (39 FR 31602). They were again amended on March 26, 1976 to clarify the applicability criteria and the requirements for a written SPCC Plan and specify procedures for developing SPCC Plans for mobile facilities (41 FR 12567). Additional substantive and clarifying changes to the SPCC

regulations were proposed on October 22, 1991 (56 FR 54612), February 17, 1993 (58 FR 8824), and December 2, 1997 (62 FR 63812). Many of the revisions proposed by the 1991, 1993, and 1997 Federal Register publications were finalized as proposed or with modifications on July 17, 2002 (67 FR 47042).

The timeline for preparing and implementing an SPCC Plan is based on when a facility becomes operational. As originally promulgated on July 17, 2002, all SPCC plans were to have been amended by February 17, 2003 with changes implemented by August 18, 2003. On January 9, 2003, EPA published an interim final rule extending these dates by 60 days, to April 17, 2003, and October 18, 2003, respectively (68 FR 1348). EPA issued this interim rule in conjunction with a proposed rule to extend the dates for amendment and implementation by one year to February 17, 2004, and August 18, 2004, respectively (68 FR 1352). As of March 2003, the proposed rule regarding further extension of the deadline had not yet been finalized.

In addition to spill prevention plan regulations, EPA has promulgated response plan regulations. On July 1, 1994, EPA finalized the FRP regulations, requiring owners and operators of certain facilities to prepare and submit an oil discharge response plan to the Regional Administrator (RA) (56 FR 34070). Like the SPCC regulations, the FRP regulations are codified in Part 112.

The Edible Oil Regulatory Reform Act, which was signed into law on November 20, 1995 required federal agencies to consider the various property differences and environmental effects between non-petroleum oils and petroleum oils. As a result, EPA clarified that animal fats and vegetable oils do not markedly differ from petroleum oils in properties or environmental effects and published a rulemaking establishing regulatory language to more specifically address non-petroleum oils. (65 FR 40776; June 30, 2000).

3. OIL SPILL PROGRAM

EPA's Oil Spill Program strives to limit damage done by oil spills through regulations designed to address a facility's preparedness and its ability to prevent and respond to an oil discharge. EPA's spill prevention, control, and countermeasure regulations address these issues by establishing requirements for spill prevention plans. The FRP regulations put an even greater focus on response efforts by establishing requirements for a plan to respond to a worst-case oil discharge event. Additionally, EPA strives to limit the damage done by oil spills through regulations requiring the immediate notification of a discharge of a harmful quantity of oil. This section of the module will provide a brief overview of the SPCC, FRP, and oil discharge notification regulations, as well as an introduction to the oil spill liability trust fund and the statutory provisions for identifying responsible parties.

3.1 SPILL PREVENTION AND PREPAREDNESS

Under the authority of CWA §311(j), EPA promulgated regulations requiring certain non-transportation-related facilities to take specific measures to prevent and prepare for oil spills into navigable waters and adjoining shorelines. These regulations, codified in 40 CFR §§112.1 through 112.15, are known as the spill prevention, control, and countermeasure (SPCC) regulations. A facility subject these regulations must develop and implement an SPCC Plan that is certified by a registered Professional Engineer (PE) and maintained at the facility.

The SPCC regulations aim to: (1) prevent oil discharges through the implementation of sound operating procedures, such as inspections and personnel training requirements; (2) prevent oil discharges from reaching navigable waters or adjoining shorelines by requiring measures such as secondary containment and integrity testing for aboveground containers; and (3) prepare facilities to respond to an oil discharge event.

APPLICABILITY

A facility owner or operator must only consider oil when determining whether the facility is subject to the SPCC requirements. Oil means oil of any kind or in any form, including but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including those derived from plant seeds, nuts, fruits and kernels; and other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil (§112.2). Examples of substances that EPA considers oil include kerosene, diesel fuel, coconut oil, and asphaltic cement.

Not all facilities that store or use oil are required to comply with the SPCC regulations; the regulations only apply to a facility that is non-transportation-related, can reasonably be expected to discharge oil in harmful quantities into the navigable waters of the United States or its adjoining shorelines, and has an oil storage capacity above a specific threshold.

A **non-transportation-related** facility can be a fixed or mobile facility involved in oil production, refining, storage, or well-drilling. Industrial, commercial, agricultural, or public

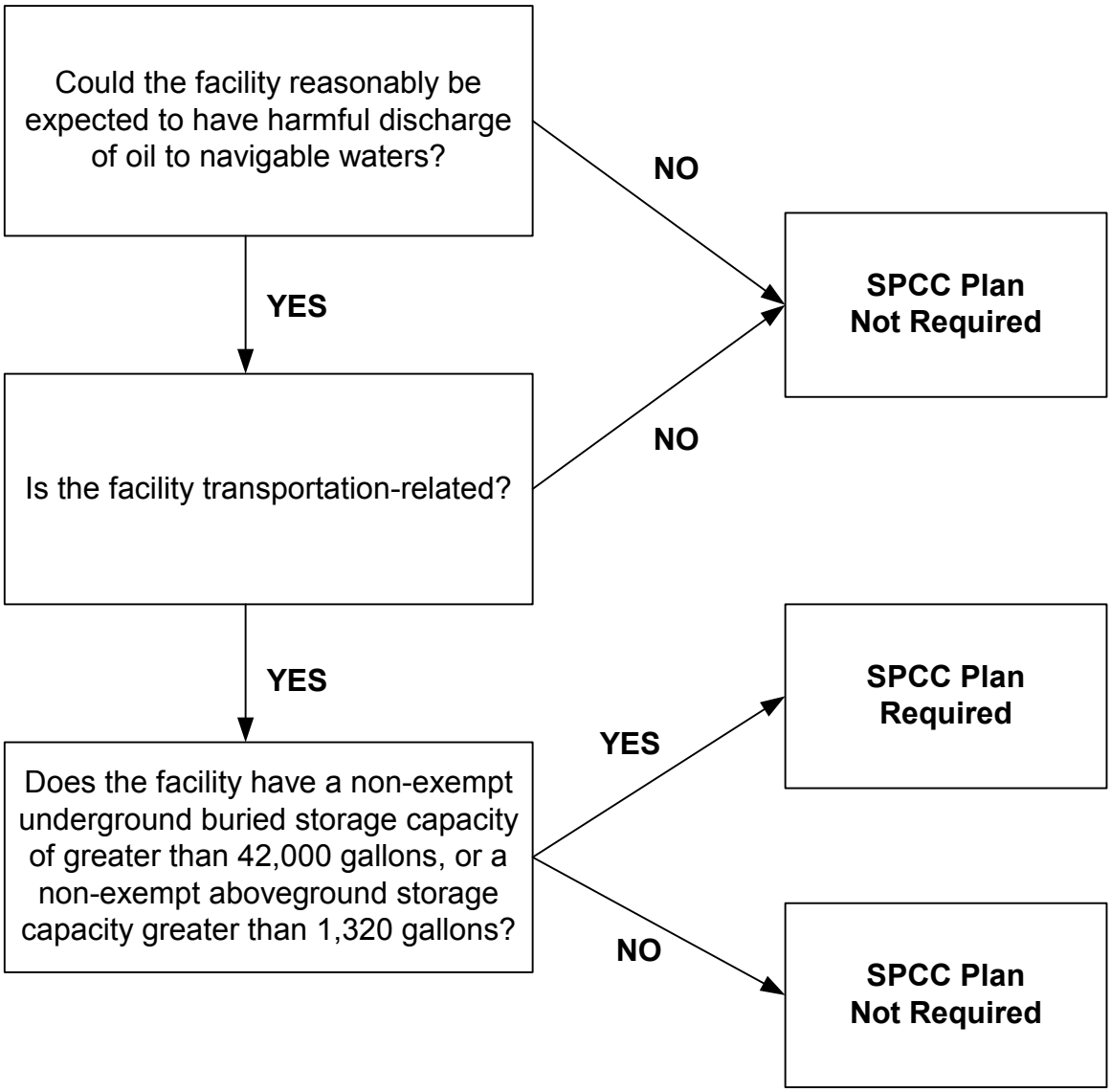
facilities that use and store oil, waste treatment facilities, loading equipment, and vehicles transporting oil within the facility are examples of non-transportation-related facilities. In certain cases, pipeline systems, terminal facilities, highway vehicles, and railroad cars are considered transportation-related. To clarify the distinction between non-transportation-related facilities regulated by EPA and transportation-related facilities regulated by DOT, the Secretary of Transportation and the Administrator of EPA signed a Memorandum of Understanding (MOU) on November 24, 1971 (36 FR 24080).

The determination as to whether a facility can be reasonably expected to discharge oil into or upon the navigable waters of the United States or its adjoining shorelines is based solely upon the facility's geographic location. Manmade features such as dikes, equipment, or other structures that may serve to restrain, hinder, contain, or prevent a discharge of oil are not part of this determination (§112.1(d)(i)). Two terms inherent to the accurate assessment of whether a facility meets this criterion are "navigable waters" and "harmful quantity." **Navigable waters** are the waters of the United States, including the territorial seas. The term includes all interstate waters and any intrastate waters, the use, degradation, or destruction of which could affect interstate or foreign commerce. Examples include streams (including intermittent streams), wetlands, lakes, natural ponds, and rivers (§112.2). Generally speaking, navigable waters consists of all natural surface waters in the United States. A **harmful quantity** is an amount of oil that when discharged violates applicable water quality standards, causes a film or sheen on the surface of the water or adjoining shorelines, or causes a sludge or emulsion to be deposited beneath the surface of the water (§110.3).

Finally, only facilities that have an aggregate aboveground oil storage capacity greater than 1,320 gallons, or an underground oil storage capacity greater than 42,000 gallons, meet the oil storage capacity threshold (§112.1(d)(2)). The shell capacity of both containers used to store oil and oil-filled operational equipment are considered in a facility's oil storage capacity calculation. The shell capacity is the amount of oil that a container is designed to hold (67 FR 47042, 47081; July 17, 2002). Nonetheless, EPA has provided certain exclusions that limit the types of containers subject to Part 112, including a facility's oil storage capacity calculations. First, all containers with an oil storage capacity less than 55 gallons are exempt from Part 112 (§112.1(d)(5)). Second, completely buried storage tanks subject to the requirements in Parts 280 or 281 for underground storage tanks are also exempt from Part 112 (§112.1(d)(4)).[1] Third, wastewater treatment facilities, and parts thereof, are not subject to the SPCC regulations when used exclusively for wastewater treatment (§112.1(d)(6)). Finally, a facility's oil storage capacity does not include the capacity of permanently closed containers (§112.1(d)(2)(ii)). Figure 1 illustrates the SPCC applicability criteria.

[1] Exempted completely buried storage tanks, however, must be included on the facility diagram (§112.1(d)(4)).

Figure 1
SPCC Applicability



SPCC REQUIREMENTS

All facilities that meet the applicability criteria discussed in the previous section are subject to the SPCC requirements and must prepare a written SPCC Plan in accordance with good engineering practices. The Plan must include a discussion of the facility's compliance with each of the applicable requirements listed in §§112.7 through 112.15. Deviation from certain requirements is permissible when equivalent environmental protection is provided by some other means of spill prevention, control, or countermeasure (§112.7(a)(2)).

Section 112.7 outlines the general requirements for all SPCC-regulated facilities, including the following:

- Preparation of a facility diagram (§112.7(a)(3))
- Facility-wide containment or diversionary structures (§112.7(c))
- Inspections and recordkeeping requirements (§112.7(e))
- Personnel training requirements (§112.7(f))
- Facility-wide security measures (§112.7(g)).

Sections 112.8 through 112.15 contain requirements that are applicable only to specific types of facilities. For example, §112.8 identifies the requirements for facility drainage, bulk storage containers, and underground piping at onshore facilities not associated with oil production. The four facility types delineated in the SPCC regulations are the following:

- Onshore facilities not associated with oil production (§§112.8 and 112.12)
- Onshore oil production facilities (§§112.9 and 112.13)
- Onshore oil drilling and workover facilities (§§112.10 and 112.14)
- Offshore oil drilling, production, or workover facilities (§§112.11 and 112.15).

The requirements in §§112.8 through 112.11 address all oils except animal and vegetable oils, while those in §§112.12 through 112.15 address only animal and vegetable oils.

Once an SPCC Plan is complete, it does not need to be submitted to EPA. The Plan must, however, be maintained at the facility and available to the Regional Administrator (RA) for on-site review during normal working hours (§112.3(e)). The Plan must also be certified by a PE, signifying that the PE is familiar with the facility, that the PE or his agent has visited the facility, that the Plan was prepared in accordance with good engineering practices, that procedures for inspections and testing have been established, and that the Plan is adequate for the facility (§112.3(d)). Although a Plan does not need to be submitted to EPA, a facility must provide a report to EPA and state regulators after a discharge of more than 1,000 gallons as described in §112.1(b), or after two such discharge events, both greater than 42 gallons and within 12 months of each other. The report submitted must include detailed information about the facility and the discharge(s), as specified in §112.4(a). After reviewing the information, the EPA Regional Administrator may require an amendment to the SPCC Plan (§112.4).

Amending an SPCC Plan can be as simple as changing a contact name, but it may also be more complicated. A PE must certify technical amendments that require the application of good engineering practices, but non-technical changes do not require PE certification. Non-technical changes include any changes that do not materially affect the facility's potential to discharge oil. Product changes, if the new product is compatible with conditions in the existing container and secondary containment, and contact list changes are examples of non-technical changes. A PE should certify an amendment if the facility owner or operator is not sure whether the change is technical or non-technical (67 FR 47042, 47093; July 17, 2002).

A facility owner or operator may identify the need for an amendment after conducting a five-year review. Pursuant to §112.5(b), the owner or operator of the facility must complete a review and evaluation of the Plan at least once every five years, the completion of which must be documented in the Plan with a signed statement indicating whether the Plan will be amended.

3.2 RESPONSE

Adequate response to an oil discharge event requires careful planning and organization on a national level. The federal response system, collectively known as the National Response System, involves collaboration between the parties responsible for the oil spill, and federal, state, and local authorities. EPA has also established regulations requiring certain high-risk facilities to develop site-specific response plans. The following section will focus on these response aspects of EPA's oil pollution prevention regulations.

NATIONAL RESPONSE SYSTEM

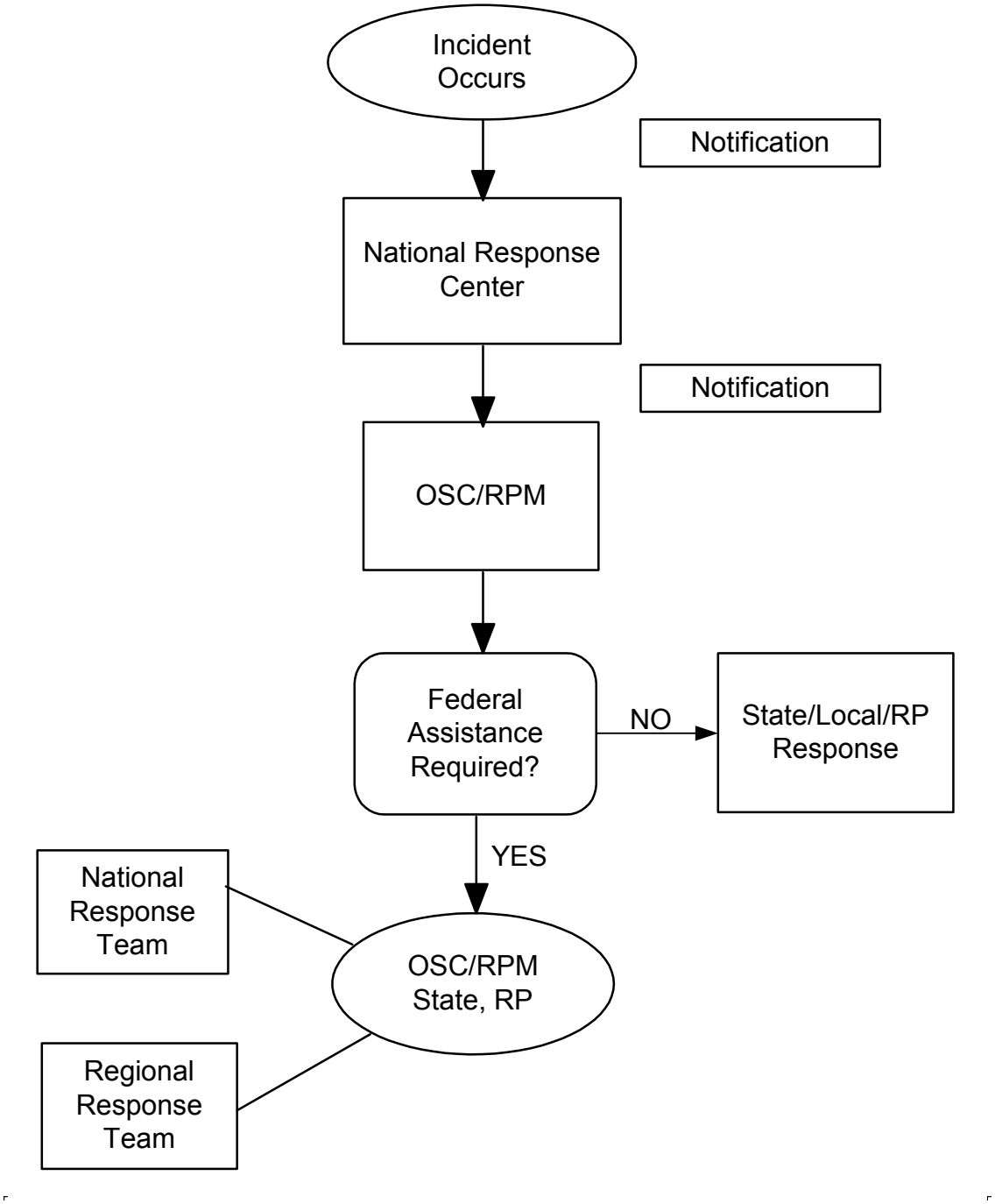
The federal government organizes responses to major oil spills through a system called the National Response System. Established under the NCP, the National Response System is a network of individuals and teams of local, state, and federal agencies that combine their expertise and resources to ensure that oil spill control and cleanup activities are timely, efficient, and pose minimal threat to human health and the environment. The three major components of the National Response System are On-Scene Coordinators (OSCs), Regional Response Teams (RRTs), and the National Response Team (NRT).

OSCs represent the first line of action in response to an oil discharge event; they are the federal officials responsible for directing response actions and coordinating all other efforts, at the scene of a discharge or spill, including the efforts of local and private response agencies. Additionally, the OSC is responsible for overseeing the development of the Area Contingency Plan (ACP) in their area of responsibility. Section 300.120 establishes the designation and responsibilities of OSCs.

RRTs are the next line of defense; OSCs can look to RRTs for additional federal support and resources when responding to an oil discharge event. RRTs are responsible for oil discharge preparedness and response at a regional level, and are comprised of federal officials and state and local representatives. There are 13 RRTs, each representing a geographical region in the United States. The responsibilities of RRTs are codified in §300.115.

Finally, the NRT is the highest level of federal response. It is an interagency group co-chaired by EPA and USCG, responsible for the management of oil spill response actions. Regulations establishing the role and responsibilities of the NRT are found in §300.110. Figure 2 demonstrates federal response to oil discharge events and illustrates the role of the National Response Team.

Figure 2
Federal Response Protocol



NCP PRODUCT SCHEDULE

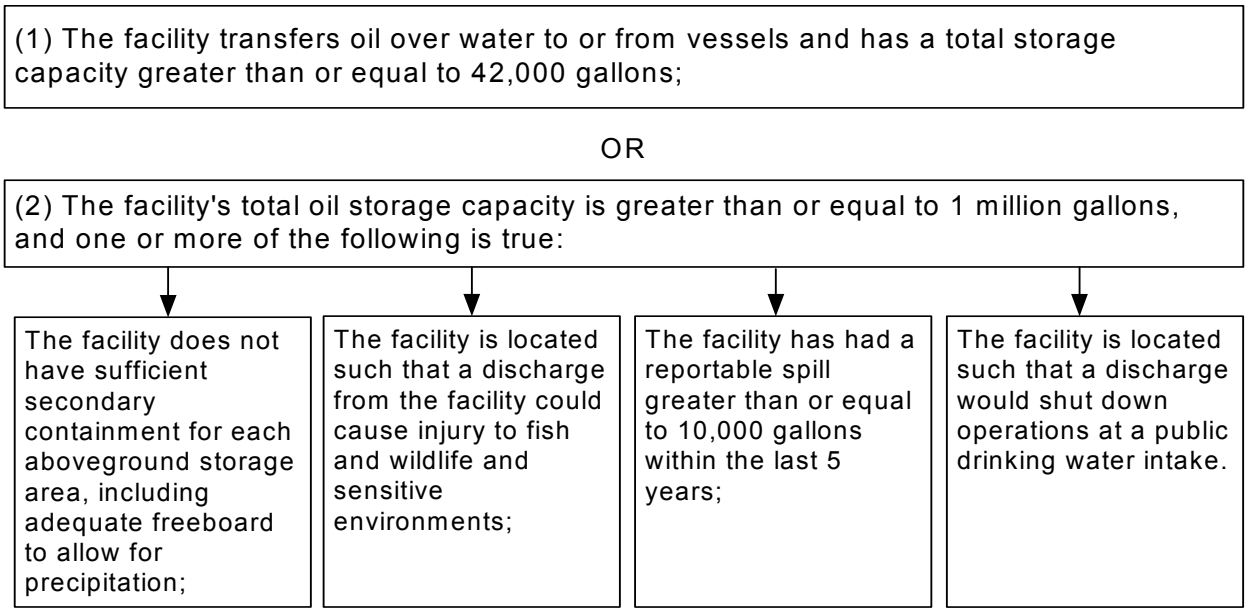
Section 311(d)(2) of the CWA as amended by §4201(a) of OPA mandates that EPA maintain a list of dispersants, chemicals, and other substances that can be used to respond to an oil discharge. Regulations for the implementation of this list, the NCP Product Schedule, were promulgated and codified in 40 CFR Part 300, Subpart J on September 15, 1994 (59 FR 47384). Products on the NCP Product Schedule are grouped into the following categories: dispersants, surface washing agents, surface collecting agents, bioremediation agents, burning agents, sorbents, miscellaneous oil spill control agents, and mixed products. The regulations explain how the NCP Product Schedule is used and detail criteria for listing products on the schedule. The listing of a product does not mean that EPA has approved the product, it simply signifies that certain data submission requirements for the product have been satisfied. Members of the National Response System may use the NCP Product Schedule to assess information on a particular response agent and authorize the use of that product to respond to an oil discharge.

FACILITY RESPONSE PLANS (FRPs)

Among the amendments made by OPA to CWA §311(j), Congress directed the President to issue regulations requiring owners or operators of tank vessels, offshore facilities, and certain onshore facilities to prepare and submit Facility Response Plans (FRPs). The FRP regulations were promulgated in Part 112 on July 1, 1994 (59 FR 34070). Unlike the SPCC Plan, an FRP must be prepared and submitted to the RA, and under certain circumstances that are discussed later in this module, the FRP must also be approved by the RA. The owner or operator of a newly constructed or newly regulated facility covered by the rule must submit its FRP prior to the start of its operations. The owner or operator of an existing facility that becomes subject to the FRP regulations because of a change in operations must submit its FRP prior to implementing the change.

The members of the regulated community subject to the FRP requirements comprise a subset of the regulated community subject to the SPCC requirements. All SPCC regulated facilities that can be reasonably expected to cause substantial harm to the environment by discharging oil into or upon the navigable waters or adjoining shorelines of the United States are subject to the FRP provisions (§112.20(a)). Section 112.20(f)(1) sets forth the criteria a facility owners or operators must use to determine whether their facility poses substantial harm to the environment. The are two criteria for making this determination: either (i) the facility transfers oil over water and has a total oil storage capacity greater than or equal to 42,000 gallons, or (ii) the facility has a total oil storage capacity of one million gallons and one the following is true: there is not sufficient secondary containment for each aboveground storage area, the facility is located such that a discharge of oil could harm sensitive environments, the facility is located such that discharge of oil would shut down a public drinking water intake, or the facility has had a reportable oil discharge within the last five years in an amount greater than or equal to 10,000 gallons. These criteria are outlined in Figure 3.

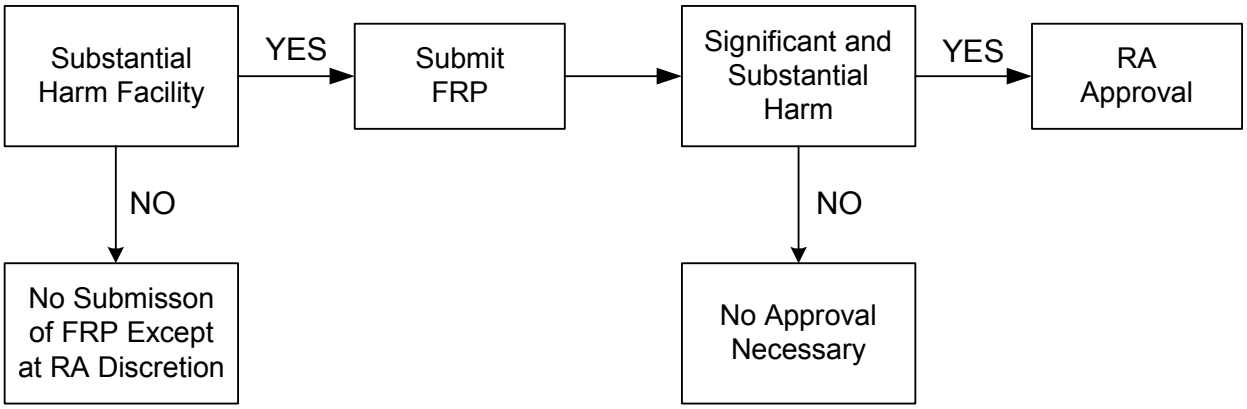
Figure 3
Substantial Harm Criteria (§112.20(f)(1))



An owner or operator may determine that a facility does not pose substantial harm to the environment based on the criteria discussed above, but that does not necessarily mean that an FRP is not required for that facility; the RA has the discretion to use additional criteria to classify the facility as a substantial harm facility. To make this determination, the RA may consider the type of transfer operations at a facility, a facility's spill history, and other site-specific characteristics and environmental factors (§112.20(f)(2)).

Many facilities do not meet the substantial harm criteria and thus do not need to submit an FRP. All owners or operators must, however, complete and maintain at the facility a certification form indicating that the facility does not meet the substantial harm criteria (§112.20(e)). An owner or operator can use the certification form found in Part 112, Appendix C, or a comparable alternative form (§112.20(e)). In contrast, if a facility does meet the SPCC applicability criteria and the substantial harm criteria, its FRP must be prepared and submitted to the RA. Once submitted, the RA will review the FRP to determine whether the facility should be further classified as a "significant and substantial harm" facility. The owner or operator of a significant and substantial harm facility must not only prepare and submit an FRP, but that FRP must be approved by the RA. When classifying a facility as a significant and substantial harm facility, the RA will consider the substantial harm criteria in §112.20(f)(2), as well as additional criteria identified in §112.20(f)(3). These additional criteria take into consideration a facility's spill history, its proximity to navigable waters, the age of its oil storage tanks, and other facility- and region-specific factors such as local impacts on public health. Figure 4 shows the requirements for different categories of facilities.

Figure 4
Significant and Substantial Harm



All FRPs must be consistent with the requirements of the NCP and applicable area contingency plans, and local emergency plans developed by local emergency planning committees under EPCRA §303 (112.20(g)(1)). Unless an equivalent response plan has been prepared to meet state or federal requirements, the FRP submitted to the RA must follow the format of the model response plan in Part 112, Appendix F (§112.20(h)). If an alternative response plan is followed, that plan must have an emergency response plan as identified in §112.20(h), supplemented with the following elements, as identified in §§112.20(h)(2) through 112.20(h)(10) and Part 112, Appendix F:

- Facility information
- Emergency response information
- Hazard evaluation
- Discharge scenarios
- Discharge detection methods
- Plan implementation procedures
- Facility self-inspection practices
- Training and meeting logs
- Site diagrams
- Description of security measures.

RELEASE NOTIFICATION

Section 311(b)(3) of the CWA stipulates notification is required when a "harmful quantity" of oil is discharged into the navigable waters or adjoining shorelines of the United States. Pursuant to CWA §311(b)(3), release notification regulations for discharges of oil were codified in Part 110 (52 FR 10719; April 2, 1987). Section 110.3 clarifies that a discharge of a harmful quantity of oil is one that violates applicable water quality standards, causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or causes sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines. Any person in charge of a facility or vessel must notify the National Response Center as soon as he or she has

knowledge of a discharge of oil from that facility or vessel in a harmful quantity amount (§110.6).

Additionally, on September 15, 1994, EPA codified revisions to the NCP in §300.300 that included discovery and notification regulations for discharges of oil (59 FR 47384). These revisions clarify that a discharge of oil may be discovered by a report from the person in charge of a vessel or facility, a deliberate search by patrols, a random or incidental observation by government agencies or the public, or other sources. The notification provisions of this section require any person, upon the discovery of a discharge of oil, to notify the NRC. The NRC must then promptly notify the OSC, who must notify the appropriate state agency of any states that may be affected by the discharge.

3.3 CLEANUP LIABILITY

The CWA liability provisions, as amended by OPA, provide EPA the authority to require a responsible party to pay for cleanup and compensate for lost or damaged natural resources. Since EPA has limited funding for the cleanup of oil, it is important that EPA receive compensation and recovery of funds they use when responding to oil discharge events.

OPA §1002 specifically outlines the costs for which a responsible party (RP) can be held liable, including removal costs and the costs of other actions taken to mitigate damage to public health and welfare. Additionally, an RP can be held liable for damages such as real or personal property damages, the costs of assessing natural resource damages, loss of profits or earning capacity, and the net cost of additional public services provided during or after removal actions.

Similar to liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), OPA liability is judicially interpreted as both strict and joint and several. Strict liability is the assessment of legal responsibility without regard to fault or diligence. Joint and several liability means that any entity considered an RP can be held liable for the entire cleanup, regardless of his or her contribution to the discharge.

THE OIL SPILL LIABILITY TRUST FUND

In the event of an oil discharge, EPA prefers to have RPs finance the cleanup of their own oil discharges. When the RP is unknown or refuses to pay, the Oil Spill Liability Trust Fund ("the Fund") can cover removal costs and/or damages that are not recovered from that RP. The emergency response portion of the Fund is administered by the USCG's National Pollution Funds Center (NPFC).

The Fund can provide up to $1 billion for any one oil pollution incident, including up to $500 million for the initiation of natural resource damage assessments and claims in connection with any single incident (Internal Revenue Code, as amended by OPA; 26 USC §9509). OPA §1012 delineates the allowable uses of the Fund, including:

- Payment of costs assumed by states for removal actions conducted in a manner consistent with the NCP;

- Payments to federal, state and Native American tribe trustees to carry out natural resource damage assessments and restorations in a manner consistent with the NCP;
- Payment of claims for uncompensated removal costs and damages; and
- Research and development and other specific appropriations.

The primary source of revenue for the Fund was a five cents per barrel tax on imported and domestic oil. This tax expired on December 31, 1994. Current revenue sources for the Fund include interest on the Fund, cost recovery from the parties responsible for discharges, and fines or civil penalties collected from RPs.